

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 36
August 16, 2013
UNOFFICIAL DRAFT 08/16/13 Afternoon Session

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VOLUME XXXVI
IN THE UNITED STATES ARMY

UNITED STATES
VS.
MANNING, Bradley E., Pfc. COURT-MARTIAL
U.S. Army, xxx-xx-9504
Headquarters and Headquarters Company,
U.S. Army Garrison,
Joint Base Myer-Henderson Hall,
Fort Myer, VA 22211
_____ /

The Hearing in the above-entitled matter was
continued on Friday, August 16, 2013, commencing at
1:00 p.m., at Fort Meade, Maryland, before the
Honorable Colonel Denise Lind, Judge.

DISCLAIMER

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This unedited, uncertified draft transcript may contain court reporting outlines that are not translated, notes made by the reporter for editing purposes, misspelled terms and names, word combinations that do not make sense, and missing testimony or colloquy due to being inaudible by the reporter.

1 APPEARANCES:

2
3 ON BEHALF OF THE GOVERNMENT:

4 CAPTAIN JOSEPH MORROW

5 CAPTAIN ANGEL OVERGAARD

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7 ON BEHALF OF THE ACCUSED:

8 DAVID COOMBS

9 CAPTAIN JOSHUA TOOMAN

10 MAJOR THOMAS HURLEY

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PROCEEDINGS

A F T E R N O O N S E S S I O N

THE COURT: Please be seated. The court's called to order. Mr. Morrow, please account for the parties as per the schedule.

CAPTAIN MORROW: I account for 15 media in the media operations center, one stenographer, and one media in the courtroom, 16 spectators in the courtroom, and the overflow trailer is not in use?

THE COURT: As per the schedule, the government gave notice of its proposed rebuttal last night at 6:00 or 1800.

Has that notice been marked as an appellate exhibit?

CAPTAIN MORROW: Yes. That is Exhibit 659.

THE COURT: And following that the defense also replied to the Court via e-mail that I guess it was an issue with the defense forensics expert being overseas?

MR. COOMBS: That's correct, Your Honor.

THE COURT: Can you tell us the defense's

1 proposed rebuttal?

2 MR. COOMBS: Last night we interviewed the
3 government's proposed witness, Agent Shaver. We looked
4 at the information that he was going do testify to.

5 Based upon what we saw, we didn't see
6 the need for our forensic expert to be made
7 available and ultimately we agreed to do a
8 stipulation of expected testimony for Agent Shaver.

9 THE COURT: And I have marked a copy of
10 that marked here as Prosecution Exhibit 209 for
11 identification.

12 PFC Manning, do you have a copy of the
13 exhibit for identification?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: Now, looking on page 2, is that
16 your signature about a third of the way down?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: On the right did you read the
19 stipulation of expected testimony before you signed it.

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: We've gone over these before

1 this one. This is a little bit different than some of
2 the other ones because it references particular
3 exhibits that the government intends to introduce
4 through this stipulation.

5 Did you review the exhibits, the
6 stipulation for what the expected testimony refers
7 to.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Do you understand the content
10 of the stipulation?

11 THE WITNESS: I do.

12 THE COURT: Do you agree with the contents
13 of the stipulation?

14 THE WITNESS: I do.

15 THE COURT: Before signing the stipulations
16 did the defense team explain the stipulation to you?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: You have an absolute to right
19 to stipulate to the content of Exhibit 290 for
20 identification.

21 PFC MANNING: Yes, ma'am.

1 THE COURT: And you also entered into a
2 stipulation that it's in your best interest to do
3 that?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: The stipulation of expected
6 testimony is a stipulation where both sides and the
7 counsel for both sides and you agree that if Special
8 Agent Shaver were here he would testify as what is in
9 Prosecution Exhibit 209 for identification. The
10 stipulation is not admission of the truth of the
11 person's testimony. The stipulation could be attacked
12 or explained as if the person was testifying in person
13 under oath.

14 Do you understand that?

15 PFC MANNING: Yes.

16 THE COURT: I know what your defense told
17 you earlier. Do you still desire to enter into it?

18 PFC MANNING: Yes, Your Honor.

19 THE COURT: Do both counsel concur in the
20 content of Prosecution 209 for identification.

21 CAPTAIN OVERGAARD: Yes, ma'am.

1 CAPTAIN TOOMAN: Yes, ma'am.

2 THE COURT: Prosecution Exhibit 209 for
3 identification is also admitted as Prosecution
4 Exhibit 209.

5 Is there anything else we need to
6 address before we begin the government rebuttal
7 case?

8 MR. COOMBS: No, Your Honor.

9 CAPTAIN MORROW: No, Your Honor.

10 THE COURT: Counsel I met before coming
11 into court today with an RCM802 conference for little
12 logicists issue. The trial schedule will proceed as
13 follows: We're going to have government's rebuttal
14 case. The Court's going to be prepared to enter a
15 special findings on Monday. We'll recess the Court
16 today and then sentencing argument will begin Monday at
17 1300 hundred.

18 MR. COOMBS: Yes, Your Honor.

19 CAPTAIN MORROW: Yes, Your Honor.

20 THE COURT: And Monday will not be an open
21 session of the court. I need go through with the court

1 reporter and the paralegals the exhibits that we have
2 just to make sure that they're all there and for some
3 logistics and orders, and Monday morning we're going to
4 be intending to do that.

5 The next open session is at Monday
6 afternoon 1300. The Court intends at that point to
7 go over (INAUDIBLE) with the PFC Manning stipulation
8 documents and go immediately into deliberations.

9 So the government be will put out a
10 notice to be prepared to be here at a certain time
11 on Tuesday or Wednesday, depending how long it takes
12 the Court to deliberate, to announce the sentence of
13 the case.

14 Does either side require any further
15 examination of an 802 conference?

16 MR. COOMBS: I don't, Your Honor.

17 CAPTAIN MORROW: No, Your Honor.

18 THE COURT: Is the government ready to
19 proceed with the rebuttal case?

20 CAPTAIN OVERGAARD: Yes, ma'am.

21 THE COURT: Proceed.

1 CAPTAIN OVERGAARD: First government moves
2 to admit what had been marked as Prosecution Exhibits
3 205, 206, 207, and 208 for identification into exhibit
4 as prosecution 205, 206, 207, and 208.

5 CAPTAIN TOOMAN: No, objection, ma'am.

6 THE COURT: May I see them, please?

7 I have before me Prosecution Exhibit
8 205, 206, 207, and 208 for identification and the
9 defense has no objection to any of them, therefore,
10 they are all admitted.

11 CAPTAIN OVERGAARD: Permission to publish
12 Prosecution Exhibit 209, ma'am, the stipulation of
13 expected testimony of Special Agent Shaver?

14 THE COURT: Proceed.

15 CAPTAIN OVERGAARD:

16 ESTIMATION OF EXPECTED TESTIMONY OF
17 SPECIAL AGENT SHAVER.

18 THE COURT: So am I understanding you
19 correctly that page 1 is a summary and the other
20 remaining pages are the actually e-mails themselves?

21 CAPTAIN OVERGAARD: Yes, ma'am.

1 THE COURT: That is correct.

2 CAPTAIN TOOMAN: Yes, ma'am.

3 CAPTAIN MORROW: United States rests, Your
4 Honor.

5 THE COURT: Does that conclude the taking
6 of evidence?

7 MR. COOMBS: Yes, Your Honor.

8 CAPTAIN MORROW: Yes, Your Honor.

9 THE COURT: Is there anything else that we
10 need to address before I issue my special findings
11 which I'm going to need about a ten-minute recess
12 before I do that?

13 MR. COOMBS: No, Your Honor.

14 CAPTAIN MORROW: No, Your Honor.

15 THE COURT: The rule regarding special
16 findings allows the Court to either announce or to
17 append the special findings in writing. Does either
18 side have any objection to my announcing the special
19 findings?

20 MR. COOMBS: Your Honor, no objection to
21 that, although the defense would request that you go

1 ahead and just append your special findings to the
2 record and make them available for the public today.

3 THE COURT: Does the government have any
4 objection to that?

5 CAPTAIN MORROW: No objection, and we'll
6 provide ten to the public and ten copies to the media
7 operations.

8 THE COURT: Why don't we take a quick
9 ten-minute recess. I will have the special findings
10 marked as the next appellate exhibit in line and the
11 government can take care of the media copies.

12 (Hearing recessed at 1:20 p.m.)

13 (Hearing resumed at 1:40 p.m.)

14 THE COURT: Please be seated.

15 For the record, all parties are present
16 when last recessed are again present in court.

17 The Court is prepared to issue a special
18 findings. The parties have indicated they don't
19 want me to read it, rather they would rather have
20 copies made for the public and the Court has agreed
21 to that.

1 Is there anything else we need to
2 address before we recess the Court until Monday
3 afternoon?

4 MR. COOMBS: No, Your Honor.

5 CAPTAIN MORROW: No, Your Honor.

6 THE COURT: All right. Special findings
7 Appellate Exhibit 625 which is being handed to the
8 court reporter. Copies will be made in due course, and
9 the Court is in recess until 1:00 Monday afternoon.

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11 (Hearing was adjourned at 1:45 p.m.)

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